

1 ELIZABETH PIPKIN (243611)  
2 TYLER ATKINSON (257997)  
3 PRIYA SWAMINATHAN (349074)  
4 McMANIS FAULKNER  
a Professional Corporation  
5 50 West San Fernando Street, 10th Floor  
San Jose, California 95113  
6 Telephone: (408) 279-8700  
Facsimile: (408) 279-3244  
7 Email: [epipkin@mcmanslaw.com](mailto:epipkin@mcmanslaw.com)  
[tatkinson@mcmanslaw.com](mailto:tatkinson@mcmanslaw.com)  
[pswaminathan@mcmanslaw.com](mailto:pswaminathan@mcmanslaw.com)

8 *Attorneys for Defendant,*

9 The Church of Jesus Christ of Latter-day Saints (also improperly  
10 sued as the Corporation of the Presiding Bishop of the Church of  
Jesus Christ of Latter-day Saints and the Corporation of the  
11 President of the San Jose Stake of the Church of Jesus Christ of  
Latter-day Saints)

12 IN THE UNITED STATES DISTRICT COURT

13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 ROHNO GEPPERT, an individual,

Case No.: 5:23-CV-05763-SVK

16 Plaintiffs,

**ANSWER OF DEFENDANT THE  
CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS TO SECOND  
AMENDED COMPLAINT FOR  
DAMAGES**

17 vs.

18 THE CHURCH OF JESUS CHRIST OF  
19 LATTER-DAY SAINTS, INC., A UTAH  
CORPORATION SOLE; CORPORATION OF  
20 THE PRESIDING BISHOP OF THE  
CHURCH OF JESUS CHRIST OF LATTER-  
21 DAY SAINTS, INC. N/K/A THE CHURCH  
OF JESUS CHRIST OF LATTER-DAY  
22 SAINTS, INC.; A UTAH CORPORATION  
SOLE, CORPORATION OF THE  
23 PRESIDENT OF THE SAN JOSE STAKE OF  
THE CHURCH OF JESUS CHRIST OF  
24 LATTER-DAY SAINTS, A CALIFORNIA  
CORPORATION SOLE; AND DOES 4-10,  
25 inclusive,

26 Defendants.

1           Defendant, THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS (also  
 2 improperly sued as the Corporation of the Presiding Bishop of the Church of Jesus Christ of  
 3 Latter-day Saints) (“Defendant”) hereby answers the Second Amended Complaint for Damages  
 4 (“Complaint”), of Plaintiff ROHNO GEPPERT (“Plaintiff”)<sup>1</sup>.

5           Defendant denies that the Corporation of the President of the San Jose Stake of the  
 6 Church of Jesus Christ of Latter-day Saints (“CPSJS”) is a properly named defendant. CPSJS is  
 7 an entirely separate corporation and has no relationship to the facts in this matter. CPSJS exists  
 8 to merely hold unrelated personal property. Defendant incorporates this response by reference in  
 9 each instance that CPSJS is named or otherwise referred to in the Complaint as a defendant.

10          Defendant denies all allegations contained in the Complaint unless specifically admitted  
 11 below. Defendant denies Plaintiff’s unnumbered paragraph purporting to describe the “nature of  
 12 the action.” Defendant admits, denies, or otherwise answers the specific numbered allegations in  
 13 the Complaint as follows:

14          1.        In answer to Paragraph 1 of the Complaint, Defendant admits that Plaintiff,  
 15 Rohno Geppert (“Plaintiff”), is an adult male who currently resides in the State of Arizona.

16          2.        In answer to Paragraph 2 of the Complaint, Defendant admits that Plaintiff was a  
 17 member of the Church of Jesus Christ of Latter-day Saints (the “Church”) at some point in time.  
 18 To the extent a further response is required, Defendant denies the remaining allegations  
 19 contained in Paragraph 2. Defendant further denies CPSJS’s involvement in this matter.

20          3.        In answer to Paragraph 3 of the Complaint, Defendant lacks sufficient knowledge  
 21 or information to form a belief as to the truth of the allegation contained therein. To the extent a  
 22 further response is required, Defendant denies the allegations contained in Paragraph 3.

23          4.        In answer to Paragraph 4 of the Complaint, Defendant admits that it operated and  
 24 controlled the Milpitas Ward of the Jesus Christ Church of Latter-Day Saints. Defendant denies  
 25 that CPSJS operated, controlled, or otherwise had anything to do with the Milpitas Ward.

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<sup>1</sup> Defendant, the Church, answers for the Corporation of the Presiding Bishop of the Church of Jesus Christ of  
 Latter-day Saints, an entity that has merged into the Church.

1       5.     In answer to Paragraph 5 of the Complaint, Defendant lacks sufficient knowledge  
 2 or information to form a belief as to the truth of the allegation contained therein. To the extent a  
 3 further response is required, Defendant denies the allegations contained in Paragraph 5.

4       6.     In answer to Paragraph 6 of the Complaint, Defendant admits that the Church was  
 5 a Utah Corporation with its principal place of business in Utah. Defendant denies the remaining  
 6 allegations contained in paragraph 6.

7       7.     In answer to Paragraph 7 of the Complaint, Defendant admits that the Corporation  
 8 of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints (“CPB”) was a Utah  
 9 Corporation with its principal place of business in Utah. Defendant further avers that in 2020,  
 10 CPB was renamed The Church of Jesus Christ of Latter-day Saints.   Defendant denies the  
 11 remaining allegations contained in paragraph 7.

12      8.     In answer to Paragraph 8 of the Complaint, Defendant denies CPSJS’s  
 13 involvement in this matter. Defendant admits that the CPSJS is not an ecclesiastical subunit of  
 14 the Church. Defendant denies the remaining allegations contained in Paragraph 8.

15      9.     In answer to Paragraph 9 of the Complaint, Defendant lacks sufficient knowledge  
 16 or information to form a belief as to the truth of the allegations contained therein. To the extent a  
 17 further response is required, Defendant denies the allegations in Paragraph 9. The positions  
 18 Jenks is alleged to have held in Paragraph 9 of the Complaint are volunteer ecclesiastical  
 19 positions within the Church. They are not positions within CPSJS.

20      10.    In answer to Paragraph 10 of the Complaint, Defendant lacks sufficient  
 21 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
 22 the extent a further response is required, Defendant denies the allegations in Paragraph 10. The  
 23 positions Jenks is alleged to have held in Paragraph 10 of the Complaint are volunteer positions  
 24 within the Church. They are not positions within CPSJS.

25      11.    In answer to Paragraph 11 of the Complaint, Defendant admits that local  
 26 congregations are called “wards,” and groups of wards form larger ecclesiastical units known as  
 27 “stakes.” Defendant denies each and every other allegation contained therein as they raise  
 28 questions of Church doctrine, polity, practice, and belief, the resolution of which would require

1 this Court to interfere with the autonomy granted to churches by the First Amendment to the  
2 United States Constitution and Article 1 Section 4 of the California Constitution.

3       12. In answer to Paragraph 12 of the Complaint, Defendant denies that the Milpitas  
4 Ward is a subdivision of CPSJS and that the CPSJS had anything to do with the Milpitas Ward.  
5 Defendant admits that the Milpitas Ward is a subdivision of the Church and that Church  
6 members are invited to volunteer in various “callings” in Church congregations. Defendant  
7 denies each and every other allegation contained therein as they raise questions of Church  
8 doctrine, polity, practice, and belief, the resolution of which would require this Court to interfere  
9 with the autonomy granted to churches by the First Amendment to the United States Constitution  
10 and Article 1 Section 4 of the California Constitution.

11       13. In answer to Paragraph 13 of the Complaint, Defendant admits that Church  
12 leaders in wards and stakes are volunteers. Defendant denies each and every other allegation  
13 contained therein as they raise questions of Church doctrine, polity, practice, and belief, the  
14 resolution of which would require this Court to interfere with the autonomy granted to churches  
15 by the First Amendment to the United States Constitution and Article 1 Section 4 of the  
16 California Constitution. Further, to the extent Paragraph 13 states a legal conclusion, it is  
17 denied.

18       14. In answer to Paragraph 14 of the Complaint, Defendant lacks sufficient  
19 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
20 the extent a further response is required, Defendant denies the allegations in Paragraph 14.

21       15. In answer to Paragraph 15 of the Complaint, this paragraph contains only legal  
22 conclusions, and thus, does not require a response.

23       16. In answer to Paragraph 16 of the Complaint, Defendant denies that this Court has  
24 jurisdiction over CPSJS.

25       17. In answer to Paragraph 17 of the Complaint, this paragraph contains only legal  
26 conclusions, and thus, does not require a response.

27       18. In answer to Paragraph 18 of the Complaint, this paragraph contains only legal  
28 conclusions, and thus, does not require a response.

1       19. In answer to Paragraph 19 of the Complaint, Defendant denies that this Court has  
2 jurisdiction over CPSJS. Defendant denies the remaining allegations in Paragraph 19.

3       20. In answer to Paragraph 20 of the Complaint, Defendant lacks sufficient  
4 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
5 the extent a further response is required, Defendant denies the allegations in Paragraph 20.

6       21. In answer to Paragraph 21 of the Complaint, Defendant incorporates its responses  
7 to the allegations to the allegations in Paragraphs 1 through 20 of the Complaint as if fully set  
8 forth herein.

9       22. In answer to Paragraph 22 of the Complaint, Defendant denies that CPSJS  
10 operated, controlled, or otherwise had anything to do with the Milpitas Ward. Defendant denies  
11 the remaining allegations contained therein as they raise questions of Church doctrine, polity,  
12 practice, and belief, the resolution of which would require this Court to interfere with the  
13 autonomy granted to churches by the First Amendment to the United States Constitution and  
14 Article 1 Section 4 of the California Constitution.

15       23. In answer to Paragraph 23 of the Complaint, Defendant denies that Kenneth Jenks  
16 used any position with Defendant to sexually abuse Plaintiff. Defendant denies each and every  
17 other allegation contained therein as they raise questions of Church doctrine, polity, practice, and  
18 belief, the resolution of which would require this Court to interfere with the autonomy granted to  
19 churches by the First Amendment to the United States Constitution and Article 1 Section 4 of the  
20 California Constitution.

21       24. In answer to Paragraph 24 of the Complaint, Defendant states that the allegations  
22 contained therein are legal conclusions and therefore no response is required. To the extent a  
23 further response is required, Defendant denies each and every allegation contained therein as  
24 they raise questions of Church doctrine, polity, practice, and belief, the resolution of which  
25 would require this Court to interfere with the autonomy granted to churches by the First  
26 Amendment to the United States Constitution and Article 1 Section 4 of the California  
27 Constitution.

1       25. In answer to Paragraph 25 of the Complaint, Defendant denies each and every  
2 allegation contained therein as they raise questions of Church doctrine, polity, practice, and  
3 belief, the resolution of which would require this Court to interfere with the autonomy granted to  
4 churches by the First Amendment to the United States Constitution and Article 1 Section 4 of the  
5 California Constitution.

6       26. In answer to Paragraph 26 of the Complaint, Defendant denies each and every  
7 allegation contained therein as they raise questions of Church doctrine, polity, practice, and  
8 belief, the resolution of which would require this Court to interfere with the autonomy granted to  
9 churches by the First Amendment to the United States Constitution and Article 1 Section 4 of the  
10 California Constitution.

11       27. In answer to Paragraph 27 of the Complaint, Defendant denies each and every  
12 allegation contained therein as they raise questions of Church doctrine, polity, practice, and  
13 belief, the resolution of which would require this Court to interfere with the autonomy granted to  
14 churches by the First Amendment to the United States Constitution and Article 1 Section 4 of the  
15 California Constitution.

16       28. In answer to Paragraph 28 of the Complaint, Defendant states that the allegations  
17 contained therein are legal conclusions and therefore no response is required. To the extent a  
18 further response is required, Defendant denies each and every allegation contained therein as  
19 they raise questions of Church doctrine, polity, and belief, the resolution of which would require  
20 this Court to interfere with the autonomy granted to churches by the First Amendment to the  
21 United States Constitution and Article 1 Section 4 of the California Constitution.

22       29. In answer to Paragraph 29 of the Complaint, Defendant lacks sufficient  
23 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
24 the extent a further response is required, Defendant denies the allegations contained in Paragraph  
25 29.

26       30. In answer to Paragraph 30 of the Complaint, Defendant denies that Plaintiff was  
27 abused by Kenneth Jenks while Jenks was acting as “DEFENDANTS’ teacher, executive  
28 secretary, librarian, and church leader ....” Defendant denies each and every other allegation

1 contained therein as they raise questions of Church doctrine, polity, and belief, the resolution of  
 2 which would require this Court to interfere with the autonomy granted to churches by the First  
 3 Amendment to the United States Constitution and Article 1 Section 4 of the California  
 4 Constitution.

5       31.     In answer to Paragraph 31 of the Complaint, Defendant denies that Plaintiff was  
 6 abused by Kenneth Jenks while Jenks was acting as “DEFENDANTS’ teacher, executive  
 7 secretary, librarian, and church leader ....” Defendant denies each and every other allegation  
 8 contained therein as they raise questions of Church doctrine, polity, and belief, the resolution of  
 9 which would require this Court to interfere with the autonomy granted to churches by the First  
 10 Amendment to the United States Constitution and Article 1 Section 4 of the California  
 11 Constitution.

12       32.     In answer to Paragraph 32 of the Complaint, Defendant denies that Kenneth Jenks  
 13 was ever Defendant’s employee. Defendant lacks sufficient knowledge or information to form a  
 14 belief as to the truth of the allegations contained therein. To the extent a further response is  
 15 required, Defendant denies the allegations contained in Paragraph 32.

16       33.     In answer to Paragraph 33 of the Complaint, Defendant denies that Kenneth Jenks  
 17 was ever Defendant’s employee. Defendant lacks sufficient knowledge or information to form a  
 18 belief as to the truth of the allegations contained therein. To the extent a further response is  
 19 required, Defendant denies the allegations contained in Paragraph 33.

20       34.     In answer to Paragraph 34 of the Complaint, Defendant states that the allegations  
 21 contained therein are legal conclusions and therefore no response is required. To the extent a  
 22 further response is required, Defendant denies the allegations contained in Paragraph 34.

23       35.     In answer to Paragraph 35 of the Complaint, Defendant lacks sufficient  
 24 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
 25 the extent a further response is required, Defendant denies the allegations contained in Paragraph  
 26 35.

27       36.     In answer to Paragraph 36 of the Complaint, Defendant states that the allegations  
 28 contained therein are legal conclusions and therefore no response is required. To the extent a

1 further response is required, Defendant denies the allegations contained in Paragraph 36.

2       37. In answer to Paragraph 37 of the Complaint, Defendant denies each and every  
3 allegation contained therein.

4       38. In answer to Paragraph 38 of the Complaint, Defendant denies each and every  
5 allegation contained therein.

6       39. In answer to Paragraph 39 of the Complaint, Defendant denies each and every  
7 allegation contained therein.

8       40. In answer to Paragraph 40 of the Complaint, Defendant denies each and every  
9 allegation contained therein.

10       41. In answer to Paragraph 41 of the Complaint, Defendant denies that Kenneth  
11 Jenkins used any position he may have held in the Church to sexually abuse Plaintiff. Defendant  
12 denies each and every other allegation contained therein as they raise questions of Church  
13 doctrine, polity, and belief, the resolution of which would require this Court to interfere with the  
14 autonomy granted to churches by the First Amendment to the United States Constitution and  
15 Article 1 Section 4 of the California Constitution.

16       42. In answer to Paragraph 42 of the Complaint, Defendant denies that Kenneth Jenkins  
17 used any position he may have held with the Church to sexually abuse Plaintiff. Defendant  
18 denies each and every other allegation contained therein as they raise questions of Church  
19 doctrine, polity, and belief, the resolution of which would require this Court to interfere with the  
20 autonomy granted to churches by the First Amendment to the United States Constitution and  
21 Article 1 Section 4 of the California Constitution.

22       43. In answer to Paragraph 43 of the Complaint, Defendant lacks sufficient  
23 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
24 the extent a further response is required, Defendant denies the allegations contained in Paragraph  
25 43.

26       44. In answer to Paragraph 44 of the Complaint, Defendant lacks sufficient  
27 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
28 the extent a further response is required, Defendant denies the allegations contained in Paragraph

1 44.

2 45. In answer to Paragraph 45 of the Complaint, Defendant denies each and every  
3 allegation contained therein.

4 46. In answer to Paragraph 46 of the Complaint, Defendant denies each and every  
5 allegation contained therein.

6 47. In answer to Paragraph 47 of the Complaint, Defendant lacks sufficient  
7 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
8 the extent a further response is required, Defendant denies the allegations contained in Paragraph  
9 47.

10 48. In answer to Paragraph 48 of the Complaint, Defendant denies each and every  
11 allegation contained therein.

12 49. In answer to Paragraph 49 of the Complaint, Defendant lacks sufficient  
13 knowledge or information to form a belief as to the truth of the remaining allegations contained  
14 therein. To the extent a further response is required, Defendant denies the remaining allegations  
15 contained in Paragraph 49.

16 50. In answer to Paragraph 50 of the Complaint, Defendant lacks sufficient  
17 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
18 the extent a further response is required, Defendant denies the allegations contained in Paragraph  
19 50.

20 51. In answer to Paragraph 51 of the Complaint, Defendant lacks sufficient  
21 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
22 the extent a further response is required, Defendant denies the allegations contained in Paragraph  
23 51.

24 52. In answer to Paragraph 52 of the Complaint, Defendant lacks sufficient  
25 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
26 the extent a further response is required, Defendant denies the allegations contained in Paragraph  
27 52.

28

1       53.    In answer to Paragraph 53 of the Complaint, Defendant denies each and every  
2 allegation contained therein.

3       54.    In answer to Paragraph 54 of the Complaint, Defendant denies each and every  
4 allegation contained therein.

5       55.    In answer to Paragraph 55 of the Complaint, Defendant denies each and every  
6 allegation contained therein.

7       56.    In answer to Paragraph 56 of the Complaint, Defendant denies each and every  
8 allegation contained therein.

9       57.    In answer to Paragraph 57 of the Complaint, Defendant denies each and every  
10 allegation contained therein.

11       58.    In answer to Paragraph 58 of the Complaint, Defendant denies each and every  
12 allegation contained therein.

13       59.    In answer to Paragraph 59 of the Complaint, Defendant denies each and every  
14 allegation contained therein.

15       60.    In answer to Paragraph 60 of the Complaint, Defendant denies each and every  
16 allegation contained therein.

17       61.    In answer to Paragraph 61 of the Complaint, Defendant denies each and every  
18 allegation contained therein.

19       62.    In answer to Paragraph 62 of the Complaint, Defendant states the allegations  
20 contained therein are legal conclusions and therefore no response is required. Defendant lacks  
21 sufficient knowledge or information to form a belief as to the alleged injuries sustained by  
22 Plaintiff. To the extent a further response is required, Defendant denies the remaining  
23 allegations contained in Paragraph 62.

24       63.    In answer to Paragraph 63 of the Complaint, Defendant lacks sufficient  
25 knowledge or information to form a belief as to the alleged injuries sustained by Plaintiff. To the  
26 extent a further response is required, Defendant denies the allegations contained in Paragraph 63.

27       64.    In answer to Paragraph 64 of the Complaint, Defendant incorporates its responses  
28 to the allegations to the allegations in Paragraphs 1 through 64 of the Complaint as if fully set

1 forth herein.

2 65. In answer to Paragraph 65 of the Complaint, Defendant states the allegations  
3 contained therein are legal conclusions and therefore no response is required. To the extent a  
4 further response is required, Defendant denies the allegations contained in Paragraph 65.

5 66. In answer to Paragraph 66 of the Complaint, Defendant states the allegations  
6 contained therein are legal conclusions and therefore no response is required. To the extent a  
7 further response is required, Defendant denies the allegations contained in Paragraph 66.

8 67. In answer to Paragraph 67 of the Complaint, Defendant states the allegations  
9 contained therein are legal conclusions and therefore no response is required. To the extent a  
10 further response is required, Defendant denies the allegations contained in Paragraph 67.

11 68. In answer to Paragraph 68 of the Complaint, Defendant states the allegations  
12 contained therein are legal conclusions and therefore no response is required. To the extent a  
13 further response is required, Defendant denies the allegations contained in Paragraph 68.

14 69. In answer to Paragraph 69 of the Complaint, Defendant states the allegations  
15 contained therein are legal conclusions and therefore no response is required. To the extent a  
16 further response is required, Defendant denies the allegations contained in Paragraph 69.

17 70. In answer to Paragraph 70 of the Complaint, Defendant states the allegations  
18 contained therein are legal conclusions and therefore no response is required. To the extent a  
19 further response is required, Defendant denies the allegations contained in Paragraph 70.

20 71. In answer to Paragraph 71 of the Complaint, Defendant states the allegations  
21 contained therein are legal conclusions and therefore no response is required. To the extent a  
22 further response is required, Defendant denies the allegations contained in Paragraph 71.

23 72. In answer to Paragraph 72 of the Complaint, Defendant lacks sufficient  
24 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
25 the extent a further response is required, Defendant denies the allegations contained in Paragraph  
26 72.

27 73. In answer to Paragraph 73 of the Complaint, Defendant incorporates its responses  
28 to the allegations to the allegations in Paragraphs 1 through 73 of the Complaint as if fully set

1 forth herein.

2       74. In answer to Paragraph 74 of the Complaint, Defendant states the allegations  
 3 contained therein are legal conclusions and therefore no response is required. To the extent a  
 4 further response is required, Defendant denies the allegations contained in Paragraph 74.  
 5 Defendant further denies CPSJS's involvement in this matter.

6       75. In answer to Paragraph 75 of the Complaint, Defendant states the allegations  
 7 contained therein are legal conclusions and therefore no response is required. To the extent a  
 8 further response is required, Defendant denies the allegations contained in Paragraph 75.

9       76. In answer to Paragraph 76 of the Complaint, Defendant states the allegations  
 10 contained therein are legal conclusions and therefore no response is required. To the extent a  
 11 further response is required, Defendant denies the allegations contained in Paragraph 76.  
 12 Defendant further denies CPSJS's involvement in this matter.

13       77. In answer to Paragraph 77 of the Complaint, Defendant lacks sufficient  
 14 knowledge or information to form a belief as to the truth of the allegations contained therein. To  
 15 the extent a further response is required, Defendant denies the allegations contained in Paragraph  
 16 77.

17       78. In response to Paragraph 78 of the Complaint, this constitutes a prayer for relief  
 18 and therefore no response is required. To the extent a further response is required, Defendant  
 19 denies that Plaintiff is entitled to the relief sought in Paragraph 78.

20       79. In response to Paragraph 79 of the Complaint, this constitutes a prayer for relief  
 21 and therefore no response is required. To the extent a further response is required, Defendant  
 22 denies that Plaintiff is entitled to the relief sought in Paragraph 79.

23       80. In response to Paragraph 80 of the Complaint, this constitutes a prayer for relief  
 24 and therefore no response is required. To the extent a further response is required, Defendant  
 25 denies that Plaintiff is entitled to the relief sought in Paragraph 80.

26       81. In response to Paragraph 81 of the Complaint, this constitutes a prayer for relief  
 27 and therefore no response is required. To the extent a further response is required, Defendant  
 28 denies that Plaintiff is entitled to the relief sought in Paragraph 81.

82. In response to Paragraph 82 of the Complaint, this constitutes a prayer for relief and therefore no response is required. To the extent a further response is required, Defendant denies that Plaintiff is entitled to the relief sought in Paragraph 82.

83. In response to Paragraph 83 of the Complaint, this constitutes a prayer for relief and therefore no response is required. To the extent a further response is required, Defendant denies that Plaintiff is entitled to the relief sought in Paragraph 83.

## AFFIRMATIVE DEFENSES

84. Defendant alleges the following affirmative defenses with respect to the claims alleged in the Complaint, without assuming the burden of proof where the burden of proof rests on Plaintiff.

## **FIRST AFFIRMATIVE DEFENSE**

### **(Statute of Limitations)**

85. Pursuant to California Civil Procedure Code section 340.1, Plaintiff's causes of action against Defendant are barred by the applicable limitation period governing the damages identified in the Complaint.

## **SECOND AFFIRMATIVE DEFENSE**

### (Laches)

86. Plaintiff's causes of action are barred by reason of the doctrine of laches and undue delay in giving notice to Defendant of the matters alleged in the complaint and in commencing litigation.

### **THIRD AFFIRMATIVE DEFENSE**

**(No Special Relationship/Duty)**

87. Plaintiff's claims for damages against Defendant arising out of Defendant's alleged tortious conduct are barred because no special relationship exists between Defendant and Plaintiff, barring any affirmative legal duty owing from Defendant to Plaintiff.

## **FOURTH AFFIRMATIVE DEFENSE**

**(No Notice)**

88. Plaintiff's claims for damages against Defendant arising out of Defendant's

1 alleged tortious conduct are barred because Defendant lacks the requisite knowledge of the  
2 alleged perpetrator's sexual propensities.

3 **FIFTH AFFIRMATIVE DEFENSE**

4 **(No Mandated Reporting Requirement)**

5 89. During all relevant times pleaded in the Complaint, clergy were not mandated  
6 reporters.

7 **SIXTH AFFIRMATIVE DEFENSE**

8 **(Failure to State a Claim)**

9 90. The Complaint and each purported cause of action contained therein fails to state  
10 facts sufficient to state a cause of action against Defendant.

11 **SEVENTH AFFIRMATIVE DEFENSE**

12 **(Estoppe)**

13 91. By conduct, representations, and omissions, Plaintiff is equitably estopped to  
14 assert any claim for relief against Defendant respecting matters which are the subject of the  
15 Complaint.

16 **EIGHTH AFFIRMATIVE DEFENSE**

17 **(Unclean Hands)**

18 92. As a result of the acts and omissions in the matters relevant to this Complaint,  
19 Plaintiff has unclean hands and is, therefore, barred any claims against Defendant.

20 **NINTH AFFIRMATIVE DEFENSE**

21 **(Waiver)**

22 93. By conduct, representations and omissions, Plaintiff has waived, relinquished  
23 and/or abandoned, any claim for relief against Defendant respecting the matters that are the  
24 subject of the Complaint.

25 **TENTH AFFIRMATIVE DEFENSE**

26 **(Comparative Fault)**

27 94. Defendant denies that it was negligent in any fashion with respect to damages,  
28 losses, and injuries claimed by Plaintiff in the Complaint. However, if Defendant is found to

1 have been negligent, then Defendant alleges that the negligence of others was a substantial  
2 factor in causing the alleged harm, and any damages for the alleged harm, should be reduced by  
3 the percentage of others' responsibility.

4 **ELEVENTH AFFIRMATIVE DEFENSE**

5 **(Setoff and Recoupment)**

6 95. Without conceding that any act of Defendant caused damage to the Plaintiff in  
7 any respect, Defendant is entitled to offset and recoup all obligations of the Plaintiff owing to  
8 Defendant against any judgment.

9 **TWELFTH AFFIRMATIVE DEFENSE**

10 **(Failure to Mitigate)**

11 96. Defendant alleges that if Plaintiff sustained damages, which Defendant expressly  
12 denies, then Plaintiff failed to take reasonable and adequate steps to mitigate or minimize those  
13 damages.

14 **THIRTEENTH AFFIRMATIVE DEFENSE**

15 **(Causation/Contribution by Third-Party Acts)**

16 97. As and for a further affirmative defense to the Complaint, Defendant alleges that  
17 the Complaint, and each claim alleged therein, are barred because the acts or omissions alleged  
18 in the Complaint were actually and/or proximately caused by the acts or omissions committed by  
19 third parties.

20 **FOURTEENTH AFFIRMATIVE DEFENSE**

21 **(Speculative Damages)**

22 98. Plaintiff's claims for damages against Defendant are barred, in whole or in part,  
23 because they are speculative.

24 **FIFTEENTH AFFIRMATIVE DEFENSE**

25 **(Failure to Join Indispensable Party)**

26 99. Plaintiff's claims for damages against Defendant are barred pursuant to their  
27 failure to join one or more indispensable parties.

## **SIXTEENTH AFFIRMATIVE DEFENSE**

### (Privilege)

100. Plaintiff's claims for damages against Defendant are barred to the extent they rely upon confidential information and/or communications protected by an evidentiary privilege, such as the attorney-client privilege, the work product doctrine, or the priest-penitent privilege, and any other privilege in common law or found in statute.

## **SEVENTEENTH AFFIRMATIVE DEFENSE**

## **(Reasonable Actions to Prevent Childhood Sexual Abuse)**

9       101. Plaintiff's claims for damages against Defendant arising out of Defendant's  
10 alleged tortious conduct are barred because Defendant acted reasonably to avoid or prevent acts  
11 of childhood sexual assault.

## EIGHTEENTH AFFIRMATIVE DEFENSE

## **(No Vicarious Liability for Sexual Misconduct)**

14 102. Plaintiff's claims for damages against Defendant based on a respondeat superior  
15 theory of liability are barred because sexual misconduct falls outside the course and scope of  
16 employment and cannot be imputed to Defendant.

## **NINETEENTH AFFIRMATIVE DEFENSE**

### **(First Amendment Privileges)**

19       103. Plaintiff's claims for damages against Defendant arising out of Defendant's  
20 alleged tortious conduct may be barred by the First Amendment to the Constitution of the United  
21 States.

## **TWENTIETH AFFIRMATIVE DEFENSE**

## **(California Constitution, Article 1, Section 4)**

24 104. Plaintiff's claims for damages against Defendant arising out of Defendant's  
25 alleged tortious conduct may be barred by Article 1, Section 4, of the California Constitution.

## TWENTY-FIRST AFFIRMATIVE DEFENSE

### **(Superseding/Intervening Cause)**

28 105. The injuries and damages of which the Plaintiff complains were proximately

1 caused or contributed to by the acts of other persons and/or entities. Those acts were an  
2 intervening and superseding cause of the alleged injuries and damages, if any, of which the  
3 Plaintiff complains, thus barring Plaintiff from any recovery against Defendant.

4 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

5 **(Avoidable Consequences Doctrine)**

6 106. Defendant alleges that the Complaint is barred, or any recovery should be  
7 reduced, pursuant to the avoidable consequences doctrine because Plaintiff unreasonably failed  
8 to reduce their damages.

9 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

10 **(Assumption of Risk)**

11 107. Defendant alleges that the injuries and damages Plaintiff alleges in the Complaint,  
12 were solely caused by the voluntary and knowing, or implied, assumption of the risk or risks  
13 attendant to the matters complained of or alleged in the Complaint, and such knowing and  
14 voluntary, or implied, assumption of the risk absolutely bars or reduces Plaintiff's right to  
15 recovery, if any, in proportion to such knowing and voluntary, or implied, assumption of the risk.

16 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

17 **(Reservation of Rights)**

18 108. Defendant has or may have additional defenses that cannot be articulated due to  
19 Plaintiff's failure to particularize their claims and due to Plaintiff's failure to provide more  
20 specific information concerning the nature of the damage claims and claims for certain costs for  
21 which Plaintiff alleges that Defendant may have some responsibility. Therefore, Defendant  
22 reserves the right to assert additional defenses upon further particularization or clarification of  
23 Plaintiff's claims, upon examination of the documents provided, upon discovery of information  
24 concerning the alleged damage claims and claims for costs, and upon the development of other  
25 pertinent information.

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**JURY DEMAND**

109. Defendant respectfully demands a jury trial on all issues so triable.

DATED: November 15, 2023

McMANIS FAULKNER

/s/ *Elizabeth Pipkin*  
ELIZABETH PIPKIN

Attorneys for Defendant,  
THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS

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